

applied to an article containing isopropyl alcohol, water, and boric acid, since it created the impression that the article was made from ordinary (ethyl) alcohol and this impression was not corrected by the relatively inconspicuous statement on the label, "The contents herein contained is prepared from Isopropyl Alcohol ($\text{CH}_3\text{CHOHCH}_3$). This preparation does not contain Ethyl Alcohol ($\text{C}_2\text{H}_5\text{OH}$). If taken internally will cause violent gastric disturbances." The article was alleged to be misbranded further in that the package failed to bear upon its label a statement of the quantity or proportion of isopropyl alcohol contained therein, since the statement "Isopropyl Alcohol 70 Proof" was meaningless.

On June 24, 1937, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

27380. Adulteration and misbranding of Vita-Mil. U. S. v. 1,080 Bottles of Vita-Mil. Default decree of condemnation and destruction. (F. & D. no. 37237. Sample no. 48725-B.)

This product was falsely represented to consist of roots, herbs, and barks but in fact contained about 20 percent of Epsom salt, a mineral laxative. Its labeling bore false and fraudulent representations regarding its curative and therapeutic effects.

On February 27, 1936, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,080 bottles of Vita-Mil at Orlando, Fla., alleging that the article had been shipped in interstate commerce on or about December 3, 1935, by William Barth from Cincinnati, Ohio, and charging misbranding in violation of the Food and Drugs Act as amended. It was labeled in part: "Vita-Mil * * * Distributed by the Vita-Mil Company, Charleston, W. Va."

Analysis showed that the article consisted essentially of Epsom salt (approximately 20 percent) and extracts of plant drugs including a laxative drug, small proportions of sodium benzoate, sugars, saccharin, caramel, and flavoring material, and water.

On May 5, 1936, G. B. Potterfield, trading as the Vita-Mil Co., claimant, having admitted the allegations of the original libel, judgment of condemnation was entered with provision for release of the product under bond to be relabeled under the supervision of this Department. On or about June 3, 1936, the claimant petitioned the court to vacate the decree of May 5, 1936, which petition was argued on June 22, 1936, and granted by the court. On March 4, 1937, an amended libel was filed charging interstate shipment and misbranding, as in the original libel, and charging that the article was also adulterated and misbranded further.

The amended libel alleged that an evening newspaper published at Orlando, Fla., on January 30, 1936, carried the statement "All day Friday and Saturday a perfect tidal wave of local folk and people from nearby points swept in and out of the [name of the drug store] at [address] to hail Vita-Mil, the sensational new herbal compound"; that the cartons containing the article had printed thereon the statement "Made from Roots, Herbs and Barks from All Parts of the Earth"; and alleged that the article was adulterated in that its purity fell below the professed standard under which it was sold, namely, in the newspaper advertisement above referred to as an "herbal compound" and on the said cartons, "made from roots, herbs and barks from all parts of the earth", for the reason that it was not an herbal compound and was not made from roots, herbs, and bark, but consisted largely of Epsom salt, a mineral drug.

The article was alleged to be misbranded in that the statement borne on the carton, "A medicine made from roots, herbs and barks from all parts of the earth" was false and misleading; and in that it was an imitation of and offered for sale under the name of another article, an herbal compound made from roots, herbs, and barks, the identity of the article having been falsely declared by means of the advertisement and the statement on the carton quoted above.

It was alleged to be misbranded further in that the letters "Vita-Mil", borne on the bottle label and carton, were a device which meant to purchasers "Health for Millions", the said letters having attained such meaning as a result of the following: (1) That business cards distributed to the public by an agent of the Vita-Mil Co. bore the statement "Health for Millions" just above the letters "Vita-Mil", interpreting the meaning of "Vita-Mil" to be "Health for

Millions"; (2) that stationery used by the Vita-Mil Co. carried the printed heading "Vita-Mil" accompanied by the words "Health for Millions", likewise interpreting the meaning of "Vita-Mil"; (3) that the statement "Vita-Mil * * * a perfected combination beneficial to the control of the stomach and sluggish liver", borne on the cartons containing the bottles, was a statement which meant that the article was a treatment, remedy, and cure for the conditions therein specified; that the device "Vita-Mil" and the statement on the carton, "Vita-Mil * * * A Perfected combination beneficial to the control of the stomach and liver", were a device and a statement, respectively, regarding its curative and therapeutic effects, which were false and fraudulent.

On March 23, 1937, no claim or answer having been filed to the amended libel, judgment was entered condemning the product and ordering that it be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

23781. Adulteration and misbranding of Vita-Mil. U. S. v. 312 and 96 Bottles of Vita-Mil. Default decree of destruction. (F. & D. nos. 38948, 38949. Sample nos. 13674-C, 13675-C.)

This product was represented to be a preparation of herbs but in fact contained a large proportion (approximately 23 percent) of Epsom salt, a mineral drug. The labeling bore false and fraudulent curative and therapeutic claims.

On January 16, 1937, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 408 bottles of Vita-Mil at Meridian, Miss., alleging that the article had been shipped in interstate commerce in part on or about August 13, 1936, by Albright & Wood, from Mobile, Ala., and in part on or about September 19, 1936, by William Barth from Cincinnati, Ohio, and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. It was labeled in part: "Vita-Mil Distributed by the Vita-Mil Company, Charleston, W. Va."

Analysis showed that the article consisted essentially of Epsom salt (approximately 23 percent) and extracts of plant drugs including a laxative drug and small proportions of sodium benzoate, saccharin, sugars, caramel, and flavoring material and water.

The libel alleged that advertisements appearing in a Meridian newspaper contained the following statements regarding the article on the dates specified: (October 2, 1936) "Vita-Mil * * * the scientific herbal remedy"; (October 7, 1936) "Vita-Mil, this famous herbal remedy"; (October 9, 1936) "Vita-Mil, the advanced, scientific herbal remedy"; (October 14, 1936) "This new scientific blend of Extracts from Medicinal Plants called Vita-Mil"; (October 16, 1936) "Vita-Mil, the new scientific mixture of Extracts from Medicine Plants"; (October 21, 1936) "Vita-Mil * * * This Great Herbal Medicine"; (October 23, 1936) "Vita-Mil, a scientific blend of natural roots and herbs"; (October 28, 1936) "Vita-Mil, the scientific herbal medicine"; (October 30, 1936) "Vita-Mil * * * This Great Herbal Remedy"; (November 4, 1936) "Vita-Mil is an advanced scientific herbal remedy"; (November 5, 1936) "Vita-Mil * * * Famous Herbal Compound * * * Vita-Mil is Nature's way—a combination of pure herbs."

The article was alleged to be adulterated in that its purity fell below the professed standard under which it was sold since it was not a preparation of herbs but contained a considerable proportion of Epsom salt, a mineral drug.

The libel further alleged that the letters "Vita-Mil" borne on the bottle labels and on the cartons containing a portion of the bottles were a device regarding its curative and therapeutic effects in that they meant "Health to Millions" and that the article was "Beneficial to the control of the stomach and sluggish liver", the said letters having attained such meaning as the result of the following: (1) Business cards distributed by an agent for the Vita-Mil Co. bore the statement "Health for Millions" just above the letters "Vita-Mil" interpreting the meaning of "Vita-Mil" to be "Health for Millions"; (2) that for some time prior to December 3, 1935, the product "Vita-Mil" bore on the carton in which it was shipped in interstate commerce and distributed to the public the statement: "Vita-Mil * * * Beneficial to the control of the stomach and sluggish liver"; that subsequent to December 3, 1935, the branding was changed so that no explanation of the meaning of the said letters, save the device, "Vita-Mil" itself remained on the labeling so that at the time of shipment the labeling contained no statement in explanation of the meaning of the device "Vita-Mil", save the device itself, which means, as formerly labeled and sold "Health